

2004

STATE OF NEBRASKA

TITLE 172 CHAPTER 90

Regulations Governing the

**LICENSURE OF PHYSICIAN ASSISTANTS AND
CERTIFICATION TO SUPERVISE PHYSICIAN ASSISTANTS**

NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM



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NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 90

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 90 LICENSURE OF PHYSICIAN ASSISTANTS AND CERTIFICATION TO
SUPERVISE PHYSICIAN ASSISTANTS

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CHAPTER 90 LICENSURE OF PHYSICIAN ASSISTANTS AND CERTIFICATION TO
SUPERVISE PHYSICIAN ASSISTANTS

90-001 SCOPE AND AUTHORITY: These regulations apply to the licensure and supervision of physician assistants as defined by Neb. Rev. Stat. §§71-1,107.15 to 71-1,107.30 and the Uniform Licensing Law.

90-002 DEFINITIONS

An approved program means a program for the education of physician assistants accredited by the American Medical Association Committee on Allied Health Education and Accreditation (CAHEA), Commission on Accreditation of Allied Health Education Programs (CAAHEP), Accreditation Review Commission on Education for the Physician Assistant, Inc. (ARC-PA), or its successor agency.

Attest/Attestation means that the individual declares that all statements on application/petition are true and complete.

Backup physician means a physician designated by the supervising physician to ensure supervision of the physician assistant in the supervising physician's absence. A backup physician is subject to the same requirements imposed upon the supervising physician when the backup physician is acting as a supervising physician.

Board means the Board of Medicine and Surgery.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. §81-3201, for performance of the duties set out in that statute.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 90.

Physician assistant means any person who graduates from a program approved by the Commission on Accreditation of Allied Health Education Programs or its predecessor or successor agency and the Board, who satisfactorily completes a proficiency examination, and whom the Board, with the concurrence of the Department, approves to perform medical services under the supervision of a physician or group of physicians approved by the Board to supervise such physician assistant.

Primary site means the office where the supervising physician(s) maintains his/her primary practice.

Proficiency examination means the initial proficiency examination approved by the Board for the licensure of physician assistants, including, but not limited to, the examination administered by the National Commission on Certification of Physician Assistants, Incorporated (NCCPA) or other national organization established for such purpose that is recognized by the Board.

Secondary sites means those offices operated by the supervising physician(s), which are not the primary practice sites of said physician(s).

Supervising physician means a (a) Board-approved physician who utilizes an approved physician assistant or (b) backup physician.

Supervision means the ready availability of the supervising physician for consultation and direction of the activities of the physician assistant. Contact with the supervising physician by telecommunication is sufficient to show ready availability if the Board finds that such contact is sufficient to provide quality medical care. The level of supervision may vary by geographic location as provided in Neb. Rev. Stat. §71-1,107.17

90-003 REQUIREMENTS FOR ISSUANCE OF LICENSURE AS A PHYSICIAN ASSISTANT:

Any person who wishes to be licensed as a physician assistant must obtain a license from the Department. The criteria for issuance of licensure and documentation required by the Department and the Board are set forth below:

90-003.01 Licensure of Physician Assistant: The Department will issue a license to a person who meets all the requirements for licensure, when there are no grounds for denial.

90-003.01A Procedures for Licensure of a Physician Assistant: An applicant for licensure as a physician assistant must submit the following:

1. An application for a license to practice as a physician assistant may be submitted on a form provided by the Department or on an alternate format. The application must include the following information:
 - a. Legal name, first, last, middle/maiden
 - b. Mailing address
 - c. Permanent address
 - d. Telephone number (optional)

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- e. E-mail address/fax number (optional)
- f. Place and date of birth
- g. Social Security Number
- h. Official documentation showing successful completion of an approved program for the education of physician assistants sent directly to the Department from the institution.
- i. Certifications of licensure submitted directly to the Department from all states where licensed, certified, or registered as a physician assistant. A licensure certification must include the following information:
 - (1) Applicant's name;
 - (2) License number;
 - (3) Date of license issuance and date of expiration;
 - (4) Answer the following questions either yes or no; if you answer yes; explain the circumstances and outcome:
 - (a) Has the applicant's license ever been suspended?
 - (b) Has the applicant's license ever been revoked?
 - (c) Has the applicant's license ever had any other disciplinary action(s) taken against it?
 - (d) As far as the licensing agency's records are concerned, is the applicant entitled to your endorsement?
 - (5) The nature of disciplinary actions, if any, taken against the applicant's license, certificate, or registration;
 - (6) Date certification was prepared;
 - (7) Signature of official from licensing agency;
 - (8) Printed name and title of official from licensing agency;
 - (9) Name and address of licensing agency;
 - (10) Seal of the licensing agency.
- j. Official documentation showing successful completion of the proficiency examination submitted directly to the Department from the examination entity.
- k. Answer the following questions either yes or no; if you answer yes; explain the circumstances and outcome:
 - (1) Has any state or territory of the U.S. ever taken any of the following actions against your license, certificate, or registration? Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority ever taken any of the following actions against your license, certificate, or registration? Denied Suspended Revoked Limited

- (3) Has any licensing or disciplinary authority placed your license, certificate or registration on probation?
 - (4) Have you ever voluntarily surrendered a license, certificate, or registration issued to you by a licensing or disciplinary authority?
 - (5) Have you ever been voluntarily limited in any way a license, certificate or registration issued to you by a licensing or disciplinary authority?
 - (6) Have you ever been requested to appear before any licensing agency?
 - (7) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Have you ever been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (9) During the past ten years, have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (10) During the last ten years, have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (11) Have you ever been convicted of a felony?
 - (12) Have you ever been convicted of a misdemeanor?
 - (13) Have you ever been denied a Federal Drug Enforcement Administration (DEA) registration or State controlled substances registration?
 - (14) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (15) Have you ever surrendered your State or Federal controlled substances registration for reasons other than a move to a state where controlled substances registration was not required?
 - (16) Have you ever had your State or Federal controlled substances registration restricted in any way?
 - (17) Have you ever been notified of any malpractice claim against you?
- I. List in chronological order all medical activities since graduation, including absences from work except incidental sick leave and usual vacation;
 - m. Signed statement from the applicant that states, the statements on the application are true and complete; and

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- n. The required licensure fee and Licensee Assistance Program (LAP) fee pursuant to 172 NAC 90-013.

90-003.01B The Department will act within 150 days upon all completed applications for licensure.

90-003.01C Temporary Licensure of a Physician Assistant

90-003.01C1 The Board will issue a temporary license to persons who have successfully completed an approved program but have not passed the proficiency examination when there are no grounds for denial of the license.

90-003.01C2 A temporary license will be issued for a period not to exceed one year. Such period may be extended for up to one additional year by the Board, with the approval of the Department, upon showing of good cause. Good cause includes, but is not limited to; the applicant's being physically unable to appear for the examination. The Board, upon approval of the Department, may impose additional conditions or limitations to be met for continued temporary licensure.

90-003.01C3 A physician assistant with a temporary license may practice only when the supervising physician is actually present at the practice site.

90-004 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE THE LICENSE OF A PHYSICIAN ASSISTANT

90-004.01 The Department will deny an application for licensure when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 90-003.01 or is found to be in violation of any of the provisions of 172 NAC 90-004.

90-004.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 90-008 or in 172 NAC 90-004.

90-004.03 The Department may deny, refuse renewal of, limit, suspend, revoke or take other disciplinary measures against a license for any of the following grounds:

1. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license/certificate; or periodic renewal of such licensure/certificate;
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;
3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program (LAP) established pursuant to Neb. Rev. Stat. §71-172.01;
4. Conviction of a misdemeanor or felony under State law, Federal law, or the law of another jurisdiction and which, if committed within this State, would have

constituted a misdemeanor or felony under State law and which has a rational connection with the applicant's or licensee's fitness or capacity to practice the profession;

5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence, or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession;
6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;
7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;
8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license or certificate by a person not licensed or certified to do so;
9. Having had his/her license, certificate, or registration denied, refused renewal, limited, suspended, or revoked or having such license, certificate, or registration disciplined in any other manner pursuant to Neb. Rev. Stat. §71-155 by another State or jurisdiction to practice the particular profession involved, based upon acts by the applicant, licensee, certificate holder, or registrant similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration or the taking of other disciplinary measures against it by another State or jurisdiction is conclusive evidence;
10. Unprofessional conduct;
11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's/certificate's professional excellence or abilities, in advertisements;
12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes;
14. Willful or repeated violations of the Uniform Licensing Law or the rules and regulations of the Department relating to the licensee's, certificate holder's, or registrant's profession, sanitation, quarantine, or school inspection;
15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee/certificate holder is not licensed or certified to practice;
16. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
17. Purchasing or receiving any prescription drug from any source in violation of the Wholesale Drug Distributor Licensing Act;
18. Failure to file a report required by section 71-168;
19. Practice as a physician assistant while his/her license is suspended or in contravention of any limitation placed upon his/her license;

20. Physical or mental illness or physical or mental deterioration or disability which would render the applicant or licensee/certificate holder unqualified to practice his/her profession or occupation; or
21. Refusal to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§71-161.12 to 71-161.16 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed.

90-004.04 If the Department proposes to deny, refuse renewal of, limit, revoke, suspend, or take other disciplinary measures against a license, the applicant or licensee must be given an opportunity for a hearing before the Department and must have the right to present evidence on his/her own behalf. Hearings before the Department will be conducted pursuant to the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure of the Department.

90-005 REQUIREMENTS FOR ISSUANCE OF CERTIFICATE OF APPROVAL TO SUPERVISE A PHYSICIAN ASSISTANT: The Board, with the concurrence of the Department, will issue a certificate of approval to a physician to supervise a physician assistant who meets the requirements for such approval when there are no grounds for denial of a certificate. A physician assistant who is licensed by the Department may not commence practice until a certificate of approval to supervise such physician assistant is issued to a physician.

90-005.01 Procedures for Certification of Approval to Supervise a Physician Assistant: An applicant for a Certification of Approval to Supervise a Physician Assistant must submit the following information and the appropriate fee:

1. Name of supervising physician
2. Name of the physician assistant
3. Name and address of medical practice
4. Telephone number (optional)
5. Nebraska license number
6. Years in practice of medicine
7. Location of previous practice
8. Answer the following questions either yes or no; if you answer yes; explain the circumstances and outcome.
 - a. Has any disciplinary action ever been taken against you by a state/licensing agency for inappropriate supervision of or inappropriate practice with a physician assistant?
 - b. Has any disciplinary action ever been taken against you by a state/licensing agency?
 - c. Has the Drug Enforcement Administration ever taken action against you with regard to your controlled substances registration?

9. Since a supervising physician may not be certified to supervise more than two physician assistants unless there is a showing of good cause, list the name(s) of the Nebraska Licensed Physician Assistant(s) you are presently supervising.
10. In order to supervise more than two physician assistants you must show that good cause does exist. For example, there has been a temporary loss of supervising physician through death, serious illness, or other similar causes; the physician assistants are employed on a part-time basis; a state or federally designated shortage area or underserved area is being served. List the reasons.
11. List the primary site for practice.
12. The supervising physician and physician assistant must be together 20% of the time when the physician assistant is providing medical services at any site. Will the supervising physician and the physician assistant be together 20% of the time when the physician assistant is performing medical services at any site?
13. If you are proposing to be physically present less than 20% of the time when the physician assistant is performing medical services, describe the proposed practice site; the percent of time together; number of years of experience of the physician assistant; number of years supervising physician has supervised physician assistants; any previous knowledge the supervising physician has had with the physician assistant's patient care in the community; if the site is a state or federally designated shortage or underserved area; the general level of patient complexity; and any other pertinent/relative information.
14. When the supervising physician is absent from the practice, will an approved backup supervising physician accept responsibility for supervision of the physician assistant? If no, will the physician assistant cease providing medical services?
15. Is there a current scope of practice agreement, pursuant to 172 NAC 90-006, kept at the primary practice site?
16. Include a statement by the applicant that states that the statements on the application are true and complete.

90-005.02 The physician must hold an active license to practice Medicine and Surgery in the State of Nebraska issued pursuant to Neb. Rev. Stat. §71-1,104 or an active license to practice Osteopathic Medicine and Surgery issued pursuant to Neb. Rev. Stat. §71-1,139.01.

90-005.03 The physician assistant must hold a permanent or temporary license as a physician assistant in the State of Nebraska issued pursuant to Neb. Rev. Stat. §71-1,107.20.

90-005.04 The supervising physician and the physician assistant must certify they will comply with the primary and secondary site requirements for the supervision of a physician assistant.

90-005.05 The supervisory relationship between the physician and the physician assistant must be approved by the Board with the concurrence of the Department; and

90-005.06 The Department will act within 150 days upon all completed applications for certificates.

90-006 REQUIREMENTS FOR SUPERVISION OF PHYSICIAN ASSISTANTS: A supervising physician(s) must provide supervision while a physician assistant is performing medical services.

90-006.01 The following standards of supervision must be met:

90-006.01A Supervision must be sufficient to provide quality medical care.

90-006.01B The supervising physician and the physician assistant must have a written scope of practice agreement which is kept on file at the primary practice site and available for review by the Department upon request.

1. The scope of practice agreement must delineate:
 - (a) The activities of the physician assistant; and
 - (b) The limits of the physician assistant.
2. The physician assistant's practice agreement must include only the procedures in which the supervising physician is trained.

90-006.01C When the supervising physician utilizes a backup supervising physician s/he must maintain an agreement at all times with such physician to act as a backup supervising physician for him/her when s/he is not readily available to supervise the physician assistant. Such agreement must be maintained at the supervising physician's primary practice site, and the Department must be allowed access to such agreement at any point in time.

90-006.01D Supervising physician(s) or backup supervising physician(s) must notify the physician assistant of any license limitation or disciplinary action taken on the physician's license.

90-006.01E The supervising physician and the physician assistant must be together at any practice site 20% of the time when a physician assistant is providing medical services.

1. Calls outside the offices of the primary and secondary sites may be included in the calculation of the 20% of the time that the physician assistant and supervising physician must be together. Such calls must include but are not limited to: family planning clinics, school health, home visits, on-call time, sporting events, public health agencies, skilled nursing facilities, migrant health centers, nursing homes, and sexually transmitted disease clinics.

90-006.01F The time the supervising physician and physician assistant are together may not be less than 20% unless approved by the Board upon showing of good cause by the supervising physician. In determining good cause, the factors to consider include but are not limited to: the proposed practice site; percentage of time together to include time together on calls outside the offices as referenced in 172 NAC 90-006.01E; number of years of experience of physician assistant; number of years supervising physician has supervised physician assistants; any previous knowledge the supervising physician has had with the physician assistant's patient care in the community; if the site serves a state or federally designated shortage or underserved areas; and general level of patient problem complexity.

90-006.01G The supervising physician must obtain a physician to accept responsibility for supervision of the physician assistant whenever the supervising physician will not be readily available to the practice. A physician wishing to serve as a back-up physician must be licensed to practice medicine or osteopathic medicine and surgery in the State of Nebraska, not be prohibited by the Board from supervising a physician assistant, and be approved by the supervising physician as a person willing and qualified to assume responsibility for the care rendered by the physician assistant in the absence of the supervising physician.

90-006.01H A physician assistant may not practice at a secondary site without the personal presence of the supervising physician unless approval has been granted on an individual basis by the Board. Such approval must be granted when the following conditions are met:

1. The physician assistant holds a permanent license.
2. The physician assistant has practiced in Nebraska for at least 25 hours a week for a period of six weeks under the supervision of the physician who is currently approved to supervise the physician assistant and is requesting approval for such physician assistant to practice at the secondary site.
 - a. The six-week time period that the supervising physician and the physician assistant must be together may be shortened if approved by the Board upon a showing of good cause by the supervising physician. In determining such good cause, the factors to consider include but are not limited to: the number of years of experience the physician assistant has practiced, the number of years of experience the supervising physician has had supervising physician assistants, type of practice setting, and the familiarity the supervising physician has with the physician assistant's patient care in the community.
3. The supervising physician makes site visits to the secondary site. Such site visits must occur at a minimum of one-half day per month. Site visits may be less if approved by the Board upon showing of good cause.

- a. In determining good cause, the factors to consider include but are not limited to; practice site hours, general level of patient problem complexity, number of years of experience by the physician assistant, number of years of experience the supervising physician has supervised physician assistants and type of practice setting. A systematic documentation of these visits must be established and maintained by the supervising physician.
4. The supervising physician, as a method of regular reporting, must review 100% of the charts of the patients seen by the physician assistant. A systematic documentation of these reviews must be established and maintained by the supervising physician.
5. The supervising physician must maintain and make available to the Department, upon request, all documentation of supervision of physician assistant activities.

90-006.011 The supervising physician who wishes to supervise a physician assistant in a secondary site without being physically present must submit an application to the Department, on a form provided by the Department or on an alternate format. The secondary site application may be submitted at the time of the initial application or at a later date as an addendum. The application must include the following information:

1. Name of supervising physician.
2. Name of physician assistant.
3. Name and address of medical practice.
4. Secondary site address.
 - a. Street address.
 - b. City/State/Zip/County.
 - c. Phone number (optional).
5. Weekly practice schedule.
 - a. Office hours (primary/secondary sites).
 - b. Physician hours, when physician is present (primary/secondary sites).
 - c. Physician assistant hours, when physician assistant is present (primary/secondary sites).
 - d. Total hours of each provider at each site.
6. Will the supervising physician/designated backup physician, when acting as the supervising physician, be present at the secondary site one-half day per month during the time that the practice is open?

- a. If the supervising physician is proposing to be present at the secondary site less than one half day per month during the time the practice is open, describe:
 - (1) Practice site hours.
 - (2) General level of patient complexity.
 - (3) Number of years of experience of the physician assistant.
 - (4) Number of years of experience the supervising physician has supervising physician assistants.
 - (5) Type of practice setting.
 - (6) Other pertinent information.
7. Will the supervising physician/designated backup physician, when acting as the supervising physician, and the physician assistant be together 20% of the time at any site that the physician assistant is performing medical services?
 - a. If the supervising physician is proposing to be present at any site less than 20% of the time when the physician assistant is performing medical services, describe:
 - (1) Proposed practice site.
 - (2) Percentage of time together.
 - (3) Number of years of experience of the physician.
 - (4) Number of years of experience of the physician assistant.
 - (5) Any previous knowledge of the supervising physician has had with the physician assistant's patient care in the community.
 - (6) If the site serves a state or federally designated shortage or underserved area.
 - (7) General level of patient problem complexity.
 - (8) Other pertinent/relative information.
8. Will the supervising physician/designated backup physician, when acting as the supervising physician, review 100% of the patient charts?
9. Include a notarized statement by the supervising physician and the physician assistant that states that the statements on the application are true and complete.

90-006.01J The supervising physician may be certified to supervise only two physician assistants unless there is showing of good cause by the supervising physician. In determining such good cause, the factors to consider include, but are not limited to:

1. Group practices;
2. Temporary loss of a supervising physician;
3. Part-time employment of the physician assistant; and

4. Practicing in facilities that serve state or federally designated shortage areas or under-served areas.

90-006.01K If the supervision of a physician assistant is terminated by the physician or physician assistant, the supervising physician must notify the Department of such termination. A physician assistant must cease providing any medical services when the supervising physician terminates supervision unless the physician assistant is acting pursuant to another active scope of practice agreement with another supervising physician.

90-006.01L A physician assistant may not provide medical services when a supervising physician:

1. Is not readily available and there is no backup physician; or
2. The Certificate of Approval to Supervise has been revoked or suspended.

90-007 GROUND ON WHICH THE DEPARTMENT MAY DENY, LIMIT, REVOKE, SUSPEND, OR REFUSE RENEWAL OF A CERTIFICATE OF APPROVAL TO SUPERVISE A PHYSICIAN ASSISTANT

90-007.01 The Board, with the concurrence of the Department, at its discretion, may deny, limit, revoke, suspend or refuse renewal of an application for a certificate of approval to supervise when the physician or physician assistant fails to meet the requirements pursuant to 172 NAC 90-003 through 90-006.

90-007.02 The Board may deny a certificate of approval to supervise a physician assistant upon evidence of the following:

1. The person the applicant proposes to supervise is not licensed as a physician assistant or does not hold a temporary license to practice as a physician assistant in this state.
2. The supervising physician and the physician assistant do not satisfy the requirements for issuance of a certificate of approval to supervise pursuant to 172 NAC 90-005.
3. The supervising physician proposes to permit the physician assistant to do acts not within the scope of practice agreement of a physician assistant, pursuant to 172 NAC 90-005.
4. The supervising physician proposes to use the physician assistant without the supervision pursuant to 172 NAC 90-005.
5. Disciplinary actions or limitations taken by any State licensing agency against the supervising physician's medical license.
6. Past disciplinary action taken by a State licensing agency regarding inappropriate use of a physician assistant by the applicant.
7. Past disciplinary action taken by a State or Federal agency regarding the controlled substances registration of the applicant.

90-008 PROCEDURES FOR RENEWAL OF A PHYSICIAN ASSISTANT LICENSE: All licenses issued by the Department under the Act and these regulations expire on October 1st of each odd numbered year.

90-008.01 Renewal process: Any licensee who wishes to renew his/her license must:

1. Meet continuing education requirements pursuant to 172 NAC 90-014;
2. Pay the renewal fee pursuant to 172 NAC 90-013; and
3. Respond to the following questions:
 - a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing the continuing competency requirements pursuant to 172 NAC 90-014 earned within 24 months of the date of expiration or application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
 - d. If any disciplinary action taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the licensee has been convicted of a misdemeanor or felony:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

90-008.02 First Notice: At least 30 days before October 1st of each odd-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the

responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address change.

90-008.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee pursuant to 172 NAC 90-013;
6. The continuing competency requirements pursuant to 172-90.014 ; and
7. The option to place the license on either inactive or lapsed status.

90-008.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's social security number;
4. Attestation of completing the continuing competency requirements pursuant to 172 NAC 90-014 earned within 24 months of the date of expiration or application for wavier of continuing competency;
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

90-008.02C If the licensee wishes to place his/her license on either inactive or lapsed status, s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

90-008.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

90-008.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place such license on inactive or lapsed status in response to the first notice, a second notice of renewal pursuant to 172 NAC 90-008.01 that specify:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 90-016 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee together with an additional fee of \$25, and documentation of completing the continuing education requirements within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of completing the continuing education requirements, the license will be revoked as specified in 172 NAC 90-010.

90-008.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number;
4. Attestation by the licensee:
 - a. That s/he has not practiced in Nebraska since the expiration of his/her license; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Attestation of completing continuing competency requirements; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

90-008.03B If the licensee wishes to place his/her license on either inactive or lapsed status, s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

90-008.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke such license without further notice or hearing and shall make proper record of the revocation.

90-008.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a wavier of continuing education is granted or the licensee is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal, and pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

90-008.06 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 90-008.04 and 90-008.05 will not apply.

90-008.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

90-008.08 An individual who practices after the expiration of his/her credential, is subject to an Administrative penalty pursuant to 172 NAC 90-016, or such other action as provided in the statutes and regulations governing the credential.

90-009 PROCEDURES FOR RENEWAL OF CERTIFICATION OF APPROVAL TO SUPERVISE A PHYSICIAN ASSISTANT: All certifications issued by the Department under the Act and these regulations expire on October 1st of each odd numbered year.

90-009.01 Renewal process: Any licensee that holds a certification to supervise a physician assistant who wishes to renew his/her certification must:

1. Pay the renewal fee pursuant to 172 NAC 90-013;
2. Respond to the following questions:
 - a. Has your license in any health care profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?These questions relate to the time period since the last renewal of the certification or during the time period since initial certification in Nebraska if such occurred within the two year prior to the expiration date;
3. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;

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- c. If any disciplinary action taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
- d. If the certificate holder has been convicted of a misdemeanor or felony:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the certificate holder explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

90-009.02 First Notice: At least 30 days before October 1st of each odd-numbered year, the Department will send a renewal notice by means of regular mail to each certificate holder at the certificate holder's last place of residence as noted in the records of the Department. It is the responsibility of the certificate holder prior to the renewal period to notify the Department of any name and/or address change.

90-009.02A The renewal notice must specify:

- 1. The name of the certificate holder;
- 2. The certificate holder's last known practice site address where the certificate holder was approved to supervise a physician assistant;
- 3. The name of the physician assistant the certificate holder is supervising at said site;
- 4. The certificate number;
- 5. The expiration date of the certificate;
- 6. The renewal fee pursuant to 172 NAC 90-013; and
- 7. The option to place the certificate on either inactive or lapsed status.

90-009.02B The certificate holder must apply for renewal by submitting to the Department:

- 1. The renewal notice;
- 2. The renewal fee;
- 3. The social security number;
- 4. Attestation by the certificate holder;
 - a. That s/he has not practiced in Nebraska since the expiration of his/her certificate; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her certificate; and

5. Documentation relating to misdemeanor or felony conviction(s) or licensure/certificate revocation, suspension, limitation or disciplinary action (if applicable).

90-009.02C If the certificate holder wishes to place his/her certificate on either inactive or lapsed status, s/he must:

1. Request that his/her certificate be placed on inactive status only by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her certificate be placed on lapsed status only by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

90-009.02D The Department will notify the certificate holder in writing of the acceptance or denial of the request to allow the certification to be placed on lapsed or inactive status.

90-009.03 Second Notice: The Department will send to each certificate holder who fails to renew his/her certificate or place the certificate on inactive or lapsed status in response to the first notice, a second notice of renewal pursuant to 172 NAC 90-009.01 that specify:

1. That the certificate holder failed to pay the renewal fee;
2. That the certificate has expired;
3. That the certificate holder is subject to an Administrative penalty pursuant to 172 NAC 90-016 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee together with an additional fee of \$25, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, the certificate will be revoked as specified in 172 NAC 90-010.

90-009.03A The certificate holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The certificate holder's social security number
4. Attestation by the certificate holder:

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- a. That s/he has not practiced in Nebraska since the expiration of his/her certificate; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her certificate;
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

90-009.03A1 If the certificate holder wishes to place his/her certificate on either inactive or lapsed status s/he must:

1. Request that his/her certificate be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her certificate be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

90-009.03A2 The Department will notify the certificate holder in writing of the acceptance or denial of the request to allow the certificate to be placed on lapsed or inactive status.

90-009.04 When any certificate holder fails, within 30 days of expiration of a certificate, to pay the renewal fee and/or to pay an additional late fee of \$25, the Department will automatically revoke such certificate without further notice or hearing and make proper record of the revocation.

90-009.05 When the certificate holder has given notification to the Department that s/he desires to have the certificate lapse or be placed on inactive status upon expiration, 172 NAC 90-009.04 will not apply.

90-009.06 The Department may refuse to renew a certificate for falsification of any information submitted for renewal of a certificate. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

90-009.07 An individual who practices after the expiration of his/her credential, is subject to an Administrative penalty pursuant to 172 NAC 90-016, or such other action as provided in the statutes and regulations governing the credential.

90-010 CREDENTIAL REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The

Department will revoke a credential when the credential holder fails to meet the renewal requirements.

90-010.01 Revocation for Nonpayment of Renewal Fee or Late fee, or Failure to Submit Documentation of Continuing Competency within 30 Days of Expiration of the Credential

90-010.01A When a credential holder fails to pay the required renewal fee, to submit documentation of continuing competency, and/or to pay a late fee of \$25 and fails to request that his/her credential be placed on either inactive or lapsed status within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.

90-010.01A1 A post revocation notice will be sent which will specify that:

1. The credential holder was given a first and final notice of renewal requirements and the respective dates for these notices;
2. The credential failed to renew the credential or to request that his/her credential be placed on inactive or lapsed status;
3. Department has revoked the credential; and
4. The credential holder has a right to request reinstatement of the credential.

90-010.02 Revocation for Failure to Meet Continuing Competency Requirements

90-010.02A When a credential holder fails within 30 days of the expiration of his/her credential to meet the continuing competency requirement, the Department revokes his/her credential after notice and opportunity for a hearing.

90-010.02A1 The revocation notice for failure to meet continuing competency requirements specifies that:

1. The credential holder was given a first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
2. The credential holder failed to meet continuing competency renewal requirements or to have his/her credential timely placed on inactive or lapsed status;
3. The credential has been revoked for failure to meet continuing competency requirements within 30 days after expiration of the credential and that the revocation will become final unless a request for hearing is filed by the credential holder with the Department within 30 days of date of receipt of the notice; and
4. The credential holder has a right to request reinstatement of the credential after revocation.

90-011 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

90-011.01 Eligibility

90-011.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

90-011.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

90-011.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 90-016, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

90-011.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to:

1. 172 NAC 90-003 for Physician Assistants; or
2. 172 NAC 90-005 for Physician Assistant Supervisors.

90-011.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 90-016;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or

4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

90-011.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

90-011.02C The Department will act within 150 days on all completed applications.

90-011.02D The applicant will be provided with notice and the opportunity for hearing in accord with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 90-011.02A and 90-011.02B are final.

90-011.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that they meet the following requirements:

1. Meet renewal requirements:
 - a. The continuing competency requirements (if applicable); and
 - b. Paying the renewal fee and any other applicable fees;
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

90-011.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number;
 - d. Date of birth;

- e. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- f. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active:
 - (1) Has any state or territory of the U.S. taken any of the following actions_against your credential? Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your credential; Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your credential on probation?
 - (4) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing or disciplinary authority?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (13) Have you been convicted of a felony?
 - (14) Have you been convicted of a misdemeanor?
 - (15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (17) Have you surrendered your state or federal controlled substances registration?
 - (18) Have you had your state or federal controlled substances registration restricted in any way?

- (19) Have you been notified of any malpractice claim against you?
- g. List your activities for the time period since your credential was active; and
- h. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- i. Attestation that the continuing competency requirements for renewal have been met (if applicable);
- j. Physician Assistant Supervisors must answer questions pursuant to 172 NAC 90-005.01 items 8 through 16.
- 2. The renewal fee and any other applicable fees;
- 3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or

- b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

90-011.04A If an applicant has practiced while his/her credential was inactive, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 90-016;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

90-011.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

90-011.04C In either event pursuant to 90-011.04A or 90-011.04B, a notice and the opportunity for hearing will be given to the applicant.

90-011.04D The Department will act within 150 days on all completed applications.

90-011.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
 - a. The continuing competency requirements (if applicable);
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential, or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

90-011.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the

following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number;
 - d. Date of birth;
 - e. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - f. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active:
 - (1) Has any state or territory of the U.S. taken any of the following actions against your credential? Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your credential; Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your credential on probation?
 - (4) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing or disciplinary authority?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (13) Have you been convicted of a felony?
 - (14) Have you been convicted of a misdemeanor?

- (15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
- (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
- (17) Have you surrendered your state or federal controlled substances registration?
- (18) Have you had your state or federal controlled substances registration restricted in any way?
- (19) Have you been notified of any malpractice claim against you?
- g. List your activities for the time period since your credential was active; and
- h. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- i. Attestation that the continuing competency requirements for renewal have been met (if applicable);

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- j. Physician Assistant Supervisors must answer questions pursuant to 172 NAC 90-005.01 items 8 through 16.
- 2. The renewal fee, the late fee of \$35 and any other applicable fees.
- 3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
 - (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 90-016 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 90-011.06B.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

90-011.06A The Board's recommendation to the Department may be to:

- 1. Reinstate the credential;
- 2. Reinstate the credential with terms, conditions or restrictions; or
- 3. Deny reinstatement.

90-011.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

- 1. Reinstate the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 90-016 if warranted;
- 2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. Reinstate the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC

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- b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

90-011.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement as prescribed in Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements (if applicable); and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

90-011.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each

having personal knowledge of the activities of the petitioner since the credential was revoked.

c. Containing the following information about the petitioner:

- (1) Name;
- (2) Address;
- (3) Social security number;
- (4) Date of birth;
- (5) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- (6) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active:
 - (a) Has any state or territory of the U.S. taken any of the following actions against your credential? Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority taken any of the following actions against your credential; Limited Suspended Restricted Revoked
 - (c) Has any licensing or disciplinary authority placed your credential on probation?
 - (d) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (e) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (f) Have you been requested to appear before any licensing or disciplinary authority?
 - (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (j) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (l) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (m) Have you been convicted of a felony?
 - (n) Have you been convicted of a misdemeanor?

- (o) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (p) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (q) Have you surrendered your state or federal controlled substances registration?
 - (r) Have you had your state or federal controlled substances registration restricted in any way?
 - (s) Have you been notified of any malpractice claim against you?
- d. List your activities for the time period since your credential was active; and
- e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.

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- f. Attestation that the continuing competency requirements for renewal have been met (if applicable);
 - g. Physician Assistant Supervisors must answer questions pursuant to 172 NAC 90-005.01 items 8 through 16.
- 2. The renewal fee, the late fee of \$75 and any other applicable fees.
- 3. Attestation by the petitioner:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 90-016 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 90-011.08F.

90-011.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

90-011.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

90-011.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

90-011.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

90-011.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

90-011.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the

files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

90-011.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

90-011.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential.
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or
 - b. Grant reinstatement with terms, conditions, or restrictions.

90-011.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

90-011.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

90-011.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

90-011.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

90-011.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law;
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

90-011.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number;

- (4) Date of birth;
- (5) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- (6) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active:
 - (a) Has any state or territory of the U.S. taken any of the following actions against your credential? Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority taken any of the following actions against your credential; Limited Suspended Restricted Revoked
 - (c) Has any licensing or disciplinary authority placed your credential on probation?
 - (d) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (e) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (f) Have you been requested to appear before any licensing or disciplinary authority?
 - (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (j) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (l) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (m) Have you been convicted of a felony?
 - (n) Have you been convicted of a misdemeanor?
 - (o) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (p) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (q) Have you surrendered your state or federal controlled substances registration?

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- (r) Have you had your state of federal controlled substances registration restricted in any way?
 - (s) Have you been notified of any malpractice claim against you?
 - d. List your activities for the time period since your credential was active; and
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
 - f. Any continuing competency activities (if applicable);
 - g. Physician Assistant Supervisors must answer questions pursuant to 172 NAC 90-005.01 items 8 through 16.
- 2. The reinstatement fee of \$75.
 - 3. Attestation by the petitioner, if the credential was revoked or suspended:

- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
- (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 90-016 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 90-011.10G.

90-011.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

90-011.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

90-011.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

90-011.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

90-011.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

90-011.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

90-011.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

90-011.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

90-011.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

90-011.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;

- d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

90-011.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

- 1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
- 2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
- 3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:

- a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

90-011.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

90-011.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

90-011.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

90-011.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the

Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number;
 - d. Date of birth;
 - e. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - f. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active:
 - (1) Has any state or territory of the U.S. taken any of the following actions against your credential? Denied
Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your credential; Limited
Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your credential on probation?
 - (4) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing or disciplinary authority?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?

- (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (13) Have you been convicted of a felony?
 - (14) Have you been convicted of a misdemeanor?
 - (15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (17) Have you surrendered your state or federal controlled substances registration?
 - (18) Have you had your state or federal controlled substances registration restricted in any way?
 - (19) Have you been notified of any malpractice claim against you?
- g. List your activities for the time period since your credential was active; and
- h. A statement describing all:
- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the

applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and

- (3) Disciplinary charges pending against any professional credential held by the applicant.
 - i. Any continuing competency activities (if applicable);
 - k. Physician Assistant Supervisors must answer questions pursuant to 172 NAC 90-005.01 items 8 through 16.
 - l. Attest:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

90-011.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 90-016;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to restore the credential; or
- 4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

90-011.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request for restoration of the credential; or
- 3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

90-011.11A4 In either event pursuant to 172 NAC 90-011.11A2 or 90-011.11A3, a notice and the opportunity for hearing will be given to the applicant.

90-011.11A5 The Department will act within 150 days on all completed applications.

90-011.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

90-011.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

90-011.12B If an individual has practiced while her/his credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 90-016.

90-011.13 Credentials Voluntarily Surrendered or Limited Permanently

90-011.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

90-012 LIABILITY FOR THE NEGLIGENCE OF THE PHYSICIAN ASSISTANT: Any physician or group of physicians utilizing a physician assistant is liable for any negligent acts or omissions of the physician assistant while acting under their supervision and control.

90-013 SCHEDULE OF FEES: The following fees have been set by the Department:

1. Initial Licensure Fee for Physician Assistant: By an applicant for license to practice as a physician assistant, the fee of \$100.
2. Biennial Renewal Fee For Physician Assistant: By an applicant for renewal on a biennial basis of a license to practice as a physician assistant, the fee of \$50.
3. Proration of Initial License Fee For Physician Assistant: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.
4. Initial Certification Fee for Supervising Physician: By an, applicant for certificate of approval to supervise a physician assistant, the fee of \$100.
5. Biennial Renewal Fee For Supervising Physician: By an applicant for renewal on a biennial basis of a certificate of approval to supervise a physician assistant, the fee of \$75.
6. Proration of Initial Certification Fee For Supervising Physician: For issuance of a certificate that will expire within 180 days after its initial issuance date, a fee of \$25.
7. Inactive Status Fee: By an applicant to have his/her license/certificate placed on inactive status, the fee of \$25.

8. Renewal Late Fee: By an applicant for renewal on a biennial basis of a license/certificate, who fails to pay the renewal fee on or before the expiration date of his/her license/certificate, the fee of \$25 as a late charge, in addition to the renewal fee.
9. Certification of License/Certificate Fee: For issuance of a certification of a license/certificate, the fee of \$25. The certification includes information regarding:
 - a. The basis on which a license/certificate was issued;
 - b. The date of issuance;
 - c. Whether disciplinary action has been taken against the license/certificate; and
 - d. The current status of the license/certificate.
10. Verification of License/Certificate Fee: For issuance of a verification of a license/certificate, the fee of \$5. The verification includes written confirmation as to whether a license/certificate was valid at the time the request was made.
11. Duplicate Original Fee. For a duplicate original license/certificate, the fee of \$10.
12. Administrative Fee. For a denied license/certificate or a withdrawn application, the administrative fee of \$25 will be retained by the department, except if the license/certificate fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.
13. Reinstatement Late Fee: For reinstatement of a license/certificate for failure to meet renewal requirements:
 - a. Within one year of revocation, the fee of \$35 in addition to the renewal fee.
 - b. After one year of revocation, the fee of \$75 in addition to the renewal fee.
14. Licensee Assistance Program Fee: By an applicant for initial license, reinstatement of license and renewal of license, a fee of \$1.00 per year as set forth in Neb. Rev. Stat. §71-172.02 to support the Licensee Assistance Program.

90-014 CONTINUING COMPETENCY

90-014.01 On or before October 1, 2005, and on or before October 1 of each odd-numbered year thereafter, each physician assistant who is licensed in the State of Nebraska must, as a condition for renewal of his/her license:

90-014.01A Earn one of the following in order to meet the continuing competency requirement:

1. 50 hours of Category 1 continuing education approved as follows:

- a. Approved by the Accreditation Council for Continuing Medical Education (ACCME); the American Osteopathic Association (AOA) or the American Academy of Physician Assistants (AAPA); or
- b. Meet the National Commission on Certification of Physician Assistants (NCCPA) re-registration requirements within the previous 24 month period.
- c. Hours are to be earned within 24 months of the date of expiration, except that a licensee who has earned more than the 50 hours required for license renewal for one 24 month renewal period, is allowed to carry over up to 25 hours to the next 24 month renewal period.

90-014.01B Each licensee must submit to the Department an attestation that s/he has met the continuing competency requirement for the 24 months immediately preceding the expiration date; and

90-014.01C Each licensee is responsible for maintaining their records verifying attendance at category 1 continuing education programs or otherwise meeting the continuing competency requirement.

90-014.02 Waiver of Continuing Competency: The Department, on the recommendation of the Board, may waive the continuing competency requirement, in whole or in part, when a licensee or permit-holder submits documentation that circumstances beyond his/her control prevented the completion of such requirements. Such circumstances will include situations in which the licensee or permit-holder:

1. Holds a Nebraska license or permit but is not practicing his/her profession in Nebraska;
2. Has served in the regular armed forces of the United States during part of the renewal period immediately preceding the license renewal date;
3. Has suffered from a serious or disabling illness or physical disability during the renewal period immediately preceding the license renewal date which prevented completion of the continuing competency requirements;
4. Was first licensed within the renewal period immediately preceding the license renewal date.

90-014.03 Audit of Continuing Competency: The Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credentialed person selected for audit will be required to produce documentation of the continuing competency activities s/he has completed in order to meet the requirements for the renewal period immediately preceding the license renewal date.

1. The Department will send to each licensee or permit-holder selected for audit a notice of audit;
2. When selected for audit, the licensee or permit-holder must provide satisfactory documentation of attendance at or participation in approved continuing competency activities to meet the requirements for the 24 months immediately preceding the expiration date.
3. Failure to comply with the audit may be grounds for non-renewal or revocation of the license.

90-015 UNPROFESSIONAL CONDUCT: In addition to the unlawful or unprofessional acts listed in Neb. Rev. Stat. §§ 71-147 through 71-148, the following conduct will be considered unprofessional acts as defined by the Board per Neb. Rev. Stat. § 71-147(10):

1. Failure to comply with the requirements of 172 NAC 90-004;
2. Willfully or negligently violating the confidentiality between physician assistant and patient except as required by law;
3. The intentional use of any false, fraudulent, or deceptive statement in any document or advertisement connected with the practice of medicine;
4. Practicing as a physician assistant under a false or assumed name;
5. Allowing another person or organization to use his/her license to practice medicine;
6. Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering, or giving to an habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance;
7. Violating any Federal law or regulation relating to controlled substances;
8. Failure to transfer pertinent and necessary medical records to another physician in a timely fashion when requested to do so by the subject patient or by a designated representative of the subject patient;
9. In an investigation by the Department of any alleged violation, refusal to cooperate or furnish evidentiary information legally requested;
10. Violation of any provision(s) of the medical practice act; the rules and regulations governing the practice of medicine and surgery and osteopathic medicine and surgery; and the regulations governing the licensure and supervision of physician assistants or of an action, stipulation, or agreement of the Board or Department;
11. Use of any therapy, drug or device in a manner inconsistent with the Federal Food, Drug and Cosmetic Act;
12. Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, appliances, or drugs;
13. Refusing to provide professional service to a person because of such person's race, creed, color, or national origin;
14. Prescribing, selling, administering, or distributing, any drug legally classified as a prescription drug other than for proper medical purposes;
15. Prescribing, dispensing or administering Schedule II controlled substances in a manner other than that defined in Neb. Rev. Stat. section 71-1,107.30;
16. Signing a blank, undated or predated prescription form;

17. Conduct that the Board determines is gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient;
18. Any conduct or practice outside the normal standard of care in the State of Nebraska, which is or might be harmful or dangerous to the health of the patient or the public;
19. Charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement which has the same effect;
20. Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes;
21. Failure to adhere to appropriate direction, collaboration or direct supervision by the licensed physician designated to supervise the physician assistant;
22. Conduct that the Board determines is gross negligence repeated negligence or negligence resulting in harm to or the death of a patient;
23. Commission of any act of sexual misconduct or exploitation related to the licensee's practice. Sexual misconduct in the practice of medicine means violation of the physician assistant-patient relationship through which the physician assistant uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity; committing any act which may reasonably be interpreted as intended for the sexual arousal or gratification of the physician assistant, the patient, or both;
24. Failure to keep and maintain adequate records of treatment or service; adequate records means legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment; and, when investigative or unproven therapies are utilized, the records must include written informed patient consent;
25. Any departure from or failure to conform to the ethics of the physician assistant profession, which ethics are found in the American Academy of Physician Assistants Guidelines for Ethical Conduct for the Physician Assistant Profession;
26. Misrepresentation of material facts in applying for or procuring renewal of a license or permit;
27. Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;
28. The use of any false or deceptive statement in any advertisement;
29. The refusal to cooperate or the failure to furnish requested information during a licensing or discipline investigation by the Department;
30. Prescribing drugs to an individual the physician assistant has never met based solely on answers to questions provided by the internet, telephone, or FAX;
31. Prescribing drugs to an individual without first establishing a proper physician assistant-patient relationship. A proper physician assistant-patient relationship requires that the physician assistant make an informed medical judgement upon examination, diagnosis, and formulation of a treatment plan and that arrangements exist to insure availability of the physician assistant or physician assistant coverage for follow-up patient care; or
32. Disruptive physician behavior as manifested by a physician assistant's aberrant

behavior which interferes with patient care or could reasonably be expected to interfere with patient care, including, but not limited to, the following:

- a. Outbursts of rage or violent behavior;
- b. Repeated failure to respond to calls;
- c. Throwing instruments, charts, or objects;
- d. Insulting comments to a patient, patient's family, physicians, or healthcare staff;
- e. Striking or assaulting a patient, patient's family, physicians, or healthcare staff; or
- f. Poor hygiene.

90-016 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

90-016.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Other government records indicate that the person was engaged in practice; and
7. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

90-016.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;

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- b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

90-016.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

Approved by the Attorney General on October 28, 2004
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